

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

ROSARIO PERALTA, #09020-069

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:09cv180-DCB-MTP

UNITED STATES OF AMERICA

DEFENDANT

ORDER OF TRANSFER

This cause comes before this Court, *sua sponte*, to transfer this complaint [1] to the United States District Court for the District of Puerto Rico pursuant to 28 U.S.C. § 1406(a). The plaintiff, a federal prisoner currently incarcerated in the Federal Correctional Complex, Yazoo City, Mississippi, filed this *Bivens*¹ complaint [1] and motion [2] for *in forma pauperis* status on October 29, 2009.

“The district court of a district in which is filed a case laying venue in the wrong division or district” may in the interest of justice “transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). The plaintiff claims in his complaint that on June 17, 2008, he mailed through the United States Postal Service a parcel package addressed to Ave. Borinquen #31-14 B. Obreros, San Jan Puerto, Rico 00915. According to the complaint, the plaintiff’s package was received by the San Juan Puerto Rico Postal Service. However, the plaintiff contends that the package was not received by the addressee and it has not been returned to the plaintiff. Therefore, the plaintiff has now filed the instant civil action seeking as relief monetary damages in the amount of \$300.00 which includes the value of the package of \$95.00 and the expenses of \$205.00 paid by the plaintiff in locating the package.

¹Pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971), a victim who has suffered a constitutional violation by a federal actor can recover damages in federal court. McGuire v. Turnbo, 137 F.3d 321, 323 (5th Cir. 1998).

Having liberally construed the allegations of the instant complaint, this Court finds that the events upon which this complaint is based occurred in San Juan, Puerto Rico, and the defendants have an official duty station at the United States Postal Office in Puerto Rico. Thus, in the interest of justice, the instant civil action will be transferred to the United States District Court for the District of Puerto Rico. Accordingly, it is

ORDERED that this civil action be transferred to the United States District Court for the District of Puerto Rico, Federico Degetau Federal Building, 150 Carlos Chardon Avenue, Room 150, San Juan, PR 00918-1767, and that the complaint and motions filed in this civil action shall be received in accordance with the local rules of that court

SO ORDERED, this the 22nd day of April, 2010.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE